

Remarks/Arguments

In response to the final Office Action of April 9, 2007, Applicant has amended the claims, which when considered with the following remarks, is deemed to place the present application in condition for allowance. Entry of this amendment and favorable consideration of all pending claims is respectfully requested.

Claims 8, 11-18, 21 and 22 remain rejected and claims 24 and 27-45 are newly rejected under 35 U.S.C. §112, first paragraph, as allegedly directed to non-enabled subject matter. The Examiner's position is that famciclovir and penciclovir are capable of preventing HSV-induced disease, but are not capable of preventing HSV infection. In response to the rejection, Claims 8, 16, 24, 29, and 32, have been amended to recite: "A method of treatment of herpes simplex virus infections or prophylaxis of herpes simplex virus-induced disease in a human in need thereof, which method comprises..." Claims 35, 39, and 43 have been amended to recite in relevant part: "A parenteral treatment method for prophylaxis treatment of herpes simplex virus-induced disease in a human in need thereof, which method comprises..." Support for the amendments to claims 8, 16, 24, 29, 32, 35, 39 and 43 may be found throughout the specification, e.g., page 1, where it is indicated that Herpes Labialis is characterized by repeated attacks of vesicular eruptions, where the consequences of frequent severe attacks can be debilitating, where it is also indicated that the most common sequel to primary genital herpes infection is recurrent disease, and that patients will experience on average 4-5 episodes per year.

In view of the amendments to claims 8, 16, 24, 29, 32, 35, 39 and 43, withdrawal of the rejection of claims 8, 11-18, 21, 22, 24 and 27-45 under the enablement provision of 35 U.S.C. §112, first paragraph is respectfully requested.

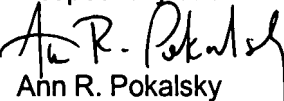
Claims 8, 11, 12, 16-18 and 21 remain rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Boker et al. It is the position of the Examiner that claims 8 and 16 read on the teaching of Boker et al. for a method of prophylaxis of re-infection of hepatitis B virus (HBV) in a liver transplantation patient with an immunosuppressant, and at the same time, with oral famciclovir. According to the Examiner, to prevent herpes simplex virus infections in a human in need, the patient population can be anyone in need, including HBV infected patients.

As indicated above, presently amended claims 8 and 16 recite in relevant part: "A method of treatment of herpes simplex virus infections or prophylaxis of herpes simplex virus-induced disease in a human in need thereof, which method comprises..." The one patient studied in Boker et al. was not infected with herpes simplex virus; therefore, the patient was not

treated for a herpes simplex virus infection nor treated prophylactically for herpes simplex virus-induced disease. Claims 8, 11, 12, 16-18 and 21 are therefore distinguished from the teaching of Boker et al. Withdrawal of the rejection of claims 8, 11, 12, 16-18 and 21 under 35 U.S.C. § 102(b) is therefore warranted.

In view of the foregoing remarks and amendments, it is firmly believed that the present application is in condition for allowance, which action is earnestly solicited.

DILWORTH & BARRESE, LLP
333 Earle Ovington Boulevard
Uniondale, New York 11553
Tel. No. (516) 228-8484
Fax No. (516) 228-8516

Respectfully submitted,

Ann R. Pokalsky
Registration No.: 34,697
Attorney for Applicants

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